

INITIATION OF LEGISLATION

Initiation of legislation amending Improved Workforce Opportunity Wage Act, 2018 PA 337, MCL 408.932 and 408.934, and adding MCL 408.934e, to: increase minimum wage to \$11/hour in 2023, \$12 in 2024, \$13 in 2025, \$14 in 2026, and \$15 in 2027, regardless of unemployment rate; in following years, increase minimum wage based on inflation rate for urban wage-earners (CPI-W); adjust over 6 years the minimum employer-paid portion of pay for workers receiving tips until it matches minimum wage for all employees; provide that employees keep tips unless they agree to share them with other non-manager employees; remove state authority to approve lower minimum wage based on determination that minor, apprentice or disability status reduces productivity.

Full text of the proposal (language that would be added shown in capital letters, deleted language struck out with a line):

Initiation of legislation to amend 2018 PA 337, entitled "Improved workforce opportunity wage act," by amending sections 2 (MCL 408.932) and 4 (MCL 408.934), as amended by 2018 PA 368; adding section 4e; and repealing parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. As used in this act:

- (a) "Commissioner" means the director of the department of licensing and regulatory affairs.
- (b) "Employ" means to engage, suffer, or permit to work.
- (c) "Employee" means an individual ~~not less than 16 years of age~~ employed by an employer. ~~on the premises of the employer or at a fixed site by the employer, and includes a minor employed subject to section 15(1) of the youth employment standards act, 1978 PA 90, MCL 409.115.~~
- (d) "Employer" means a person, firm, or corporation, including this state and its political subdivisions, agencies, and instrumentalities, and a person acting in the interest of the employer, who employs 21 or more employees at any 1 time within a calendar year. An employer is subject to this act during the remainder of that calendar year. ~~Except as specifically provided in the franchise agreement, as between a franchisee and franchisor, the franchisee is considered the sole employer of workers for whom the franchisee provides a benefit plan or pays wages.~~

Sec. 4. (1) Subject to the exceptions specified in this act, the minimum hourly wage rate is:

- (a) Before September 1, 2014, \$7.40.
- (b) Beginning September 1, 2014, \$8.15.
- (c) Beginning January 1, 2016, \$8.50.
- (d) Beginning January 1, 2017, \$8.90
- (e) Beginning January 1, 2018, \$9.25.
- (f) In calendar year 2019, or a subsequent calendar year as described in subsection (2), \$9.45.
- (g) In calendar year 2020, or a subsequent calendar year as described in subsection (2), \$9.65.
- (h) In calendar year 2021, or a subsequent calendar year as described in subsection (2), \$9.87.
- (i) In calendar year 2022, or a subsequent calendar year as described in subsection (2), \$10.10.
- (j) In calendar year 2023, ~~or a subsequent calendar year as described in subsection (2), \$10.33~~ \$11.00.
- (k) In calendar year 2024, ~~or a subsequent calendar year as described in subsection (2), \$10.56~~ \$12.00.
- (l) In calendar year 2025, ~~or a subsequent calendar year as described in subsection (2), \$10.80~~ \$13.00.
- (m) In calendar year 2026, ~~or a subsequent calendar year as described in subsection (2), \$11.04~~ \$14.00.
- (n) In calendar year 2027, ~~or a subsequent calendar year as described in subsection (2), \$11.29~~ \$15.00.
- ~~(o) In calendar year 2028, or a subsequent calendar year as described in subsection (2), \$11.54.~~
- ~~(p) In calendar year 2029, or a subsequent calendar year as described in subsection (2), \$11.79.~~
- ~~(q) In calendar year 2030, or a subsequent calendar year as described in subsection (2), \$12.05.~~

~~(2) An increase in the minimum hourly wage rate as prescribed in subsection (1) does not take effect if the unemployment rate for this state as determined by the Bureau of Labor Statistics, United States Department of Labor, is 8.5% or greater for the calendar year preceding the calendar year of the prescribed increase. An increase in the minimum hourly wage rate as prescribed in subsection (1) that does not take effect pursuant to this subsection takes effect in the first calendar year following a calendar year for which the unemployment rate for this state, as determined by the Bureau of the Labor Statistics, United States Department of Labor, is less than 8.5%.~~

(2) EVERY OCTOBER BEGINNING IN OCTOBER, 2027, THE STATE TREASURER SHALL CALCULATE AN ADJUSTED MINIMUM WAGE RATE. THE ADJUSTMENT SHALL INCREASE THE MINIMUM WAGE BY THE RATE OF INFLATION. THE INCREASE SHALL BE CALCULATED BY MULTIPLYING THE OTHERWISE APPLICABLE MINIMUM WAGE BY THE 12-MONTH PERCENTAGE INCREASE, IF ANY, IN THE CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS, CPI-W, OR A SUCCESSOR INDEX, AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR, BASED UPON THE MOST RECENT 12-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE. THE ADJUSTED MINIMUM WAGE RATE SHALL BE PUBLISHED BY NOVEMBER 1 OF THE YEAR IT IS CALCULATED AND SHALL BE EFFECTIVE BEGINNING JANUARY 1 OF THE SUCCEEDING YEAR.

SEC. 4E.

(1) THE MINIMUM HOURLY WAGE RATE OF AN EMPLOYEE SHALL BE ESTABLISHED UNDER SUBSECTION (2) IF ALL OF THE FOLLOWING OCCUR:

- (A) THE EMPLOYEE RECEIVES GRATUITIES IN THE COURSE OF HIS OR HER EMPLOYMENT.
- (B) THE GRATUITIES DESCRIBED IN SUBDIVISION (A) EQUAL OR EXCEED THE DIFFERENCE BETWEEN THE MINIMUM HOURLY WAGE RATE ESTABLISHED UNDER SUBSECTION (2) AND THE MINIMUM HOURLY WAGE RATE ESTABLISHED UNDER SECTION 4.
- (C) THE GRATUITIES ARE PROVEN GRATUITIES AS INDICATED BY THE EMPLOYEE'S DECLARATION FOR PURPOSES OF THE FEDERAL INSURANCE CONTRIBUTIONS ACT, 26 USC 3101 TO 3128.
- (D) THE ENTIRETY OF THE GRATUITIES ARE RETAINED BY THE EMPLOYEE WHO RECEIVES THEM, EXCEPT AS VOLUNTARILY SHARED WITH OTHER EMPLOYEES WHO ARE DIRECTLY OR INDIRECTLY PART OF THE CHAIN OF SERVICE AND WHOSE DUTIES ARE NOT PRIMARILY MANAGERIAL OR SUPERVISORY.
- (E) THE EMPLOYEE WAS INFORMED BY THE EMPLOYER OF THE PROVISIONS OF THIS SECTION IN WRITING, AT OR BEFORE THE TIME OF HIRE, AND GAVE WRITTEN CONSENT.

(2) FOR PURPOSES OF SUBSECTION (1) EFFECTIVE JANUARY 1, 2023, THE MINIMUM HOURLY WAGE RATE OF AN EMPLOYEE SHALL BE 48% OF THE MINIMUM HOURLY WAGE RATE ESTABLISHED UNDER SECTION 4; BEGINNING JANUARY 1, 2024, IT SHALL BE 60% OF THE MINIMUM HOURLY WAGE RATE ESTABLISHED UNDER SECTION 4; BEGINNING JANUARY 1, 2025, IT SHALL BE 70% OF THE MINIMUM HOURLY WAGE RATE ESTABLISHED UNDER SECTION 4; BEGINNING JANUARY 1, 2026, IT SHALL BE 80% OF THE MINIMUM HOURLY WAGE RATE ESTABLISHED

UNDER SECTION 4; BEGINNING JANUARY 1, 2027, IT SHALL BE 90% OF THE MINIMUM HOURLY WAGE RATE ESTABLISHED UNDER SECTION 4; AND BEGINNING JANUARY 1, 2028 AND THEREAFTER, IT SHALL BE 100% OF THE MINIMUM HOURLY WAGE RATE ESTABLISHED UNDER SECTION 4.

(3) AS USED IN THIS SECTION, "GRATUITIES" MEANS TIPS OR VOLUNTARY MONETARY CONTRIBUTIONS RECEIVED BY AN EMPLOYEE FROM A GUEST, PATRON, OR CUSTOMER FOR SERVICES RENDERED TO THAT GUEST, PATRON, OR CUSTOMER AND THAT THE EMPLOYEE REPORTS TO THE EMPLOYER FOR PURPOSES OF THE FEDERAL INSURANCE CONTRIBUTIONS ACT, 26 USC 3101 TO 3128.

(4) GRATUITIES SHALL REMAIN PROPERTY OF THE EMPLOYEE WHO RECEIVES THEM, EXCEPT PURSUANT TO A VALID AND VOLUNTARY TIP SHARING AGREEMENT DESCRIBED IN SUBSECTION (1)(D) ABOVE, REGARDLESS OF WHETHER THE EMPLOYER PAYS THE LOWER TIPPED HOURLY WAGE DESCRIBED IN SUBSECTION (2) OR THE FULL MINIMUM HOURLY RATE ESTABLISHED UNDER SECTION 4. GRATUITIES AND SERVICE CHARGES PAID TO AN EMPLOYEE ARE IN ADDITION TO, AND MAY COUNT TOWARDS, WAGES DUE TO THE EMPLOYEE.

(5) EMPLOYERS SHALL PROVIDE EMPLOYEES AND CONSUMERS WRITTEN NOTICE OF THEIR PLAN TO DISTRIBUTE SERVICE CHARGES.

(6) EMPLOYERS SHALL KEEP RECORDS SHOWING COMPLIANCE WITH PROVISIONS OF SECTION 4E FOR AT LEAST 3 YEARS FROM THE DATE OF EMPLOYEE'S LAST PAY PERIOD.

Enacting section 1. Sections 4b, 4c, and 4d of the Improved workforce opportunity wage act, 2018 PA 337, MCL 408.934b, 408.934c, and 408.934d, are repealed.

